

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State
John Thurston
500 Woodlane, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency ARKANSAS STATE BANK DEPARTMENT

Department LEGAL

Contact JOHN AHLEN E-mail jahlen@banking.state.ar.us Phone 501-324-9019

Statutory Authority for Promulgating Rules A.C.A. 23-46-205

Rule Title: COLLECTIVE INVESTMENT FUNDS

Intended Effective Date
(Check One)

- Emergency (ACA 25-15-204)
- 10 Days After Filing (ACA 25-15-204)
- Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

4/1/19; 4/2/19; 4/3/19; 4/12/19 4/19/19

05/02/2019

09/18/2019

05/02/2019

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

ANTWANETTE HOUSE ahouse@banking.state.ar.us

Contact Person

E-mail Address

09/25/2019

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

RECEIVED

SEP 26 2019

BUREAU OF
LEGISLATIVE RESEARCH

Signature

501-324-9019

Phone Number

jahlen@banking.state.ar.us

E-mail Address

BANK DEPUTY COMMISSIONER & LEGAL COUNSEL

Title

09/25/2019

Date

SEP 26 2019

SEP 26 AM 11:06

REGISTER DIV

FINAL RULE

47-701.9 COLLECTIVE INVESTMENT FUNDS

Collective Investment (Common Trust Funds as in A.C.A. § 28-69-202)

- (a) Any common trust fund or collective investment authorized by Arkansas Code Annotated § 28-69-202 shall be established and maintained in accordance with 12 C.F.R. 9.18 as of January 1, 2019.

RECEIVED

SEP 26 2019

BUREAU OF
LEGISLATIVE RESEARCH

11:00
AM REGISTERED
2019 SEP 26 AM 11:08
SECRETARY OF REVENUE
STATE OF ARKANSAS

FINAL RULE

(Please Note: The section of Rule 47-701.9 pertaining to Collective Investment Funds is repealed and replaced with the following section)

47-701.9 COLLECTIVE INVESTMENT FUNDS

Collective Investment (Common Trust Funds as in A.C.A. § 28-69-202)

- (a) Any common trust fund or collective investment authorized by Arkansas Code Annotated § 28-69-202 shall be established and maintained in accordance with 12 C.F.R. 9.18 as of January 1, 2019.

ARKANSAS STATE LIBRARY



Agency Certification Form For Depositing Rules At the Arkansas State Library



DOCUMENT SERVICES, ARKANSAS STATE LIBRARY
900 West Capitol Avenue, Suite 100
Little Rock, AR 72201
Phone: 501-682-1969 Fax: 501-682-1532

For Office Use Only		
Classification Number:		
Name of Agency:	Division/Department/Office:	
ARKANSAS STATE BANK DEPARTMENT	LEGAL	
Contact Person:	Telephone:	
JOHN AHLEN	501-324-9019	
Statutory Authority for Promulgating Rules:		
ACA 23-46-205		
Title of Rule:		
COLLECTIVE INVESTMENT FUNDS		
Rule Status	Date Adopted by Agency	Effective Date
Amended	05/02/2019	<input checked="" type="radio"/> 10 Days After Filing
<small>(Use drop down to select different status)</small>	MM/DD/YYYY	<input type="radio"/> Other: _____ <small>(if other, specify date)</small>
<input type="checkbox"/> Rule above is proposed and will be replaced by final version <input checked="" type="checkbox"/> Financial and/or Fiscal Impact Statement Attached		
<h3>Certification of Authorized Officer</h3> <p>I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.</p>		
Signature: <u>John Ahlen</u>		Date: <u>9/25/19</u>
Title: <u>DEPUTY BANK COMMISSIONER & LEGAL COUNSEL</u>		

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas State Bank Department
DIVISION Legal
DIVISION DIRECTOR Candace A. Franks
CONTACT PERSON John W. Ahlen
ADDRESS 400 Hardin Road, Suite 100, Little Rock, Arkansas 72211
PHONE NO. 501-324-9019 FAX NO. 501-324-9028 E-MAIL jahlen@banking.state.ar.us
John W. Ahlen, Deputy Bank Commissioner
NAME OF PRESENTER AT COMMITTEE MEETING & Legal Counsel
PRESENTER E-MAIL jahlen@banking.state.ar.us

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? 47-701.9 Fiduciary Powers & State Banks

2. What is the subject of the proposed rule? Collective Investment Funds

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. N/A

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes No

If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?
Yes No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. § 23-46-205

7. What is the purpose of this proposed rule? Why is it necessary? Arkansas Code Annotated § 28-69-202 permits banks and trust companies to operate collective investment funds. The Collective Investment Funds section of Arkansas State Bank Department (ASBD) Rule 47-701.9 was taken nearly verbatim from an Office of the Comptroller of the Currency (OCC) rule. Since the adoption of Rule 47-107.9, the OCC has updated its rule on collective investment funds. ASBD would like to amend Rule 47-701.9 by repealing the existing language for Collective Investment Funds and replacing it by adopting the current OCC rule by reference.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).
<http://banking.arkansas.gov/public/userfiles/RulesRegsManual.pdf>

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: May 2, 2019

Time: 10:00 am

Place: Arkansas State Bank Department

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
May 2, 2019

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
May 2, 2019

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See copy of the proof of publication and publish email to legal ads in the newspaper

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). See copy of email to the Secretary of the State

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. None

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas State Bank Department

DIVISION Legal

PERSON COMPLETING THIS STATEMENT John W. Ahlen, Deputy Bank Commissioner & Legal Counsel

TELEPHONE 501-324-9019 **FAX** 501-324-9028 **EMAIL:** jahlen@banking.state.ar.us

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Collective Investment Funds

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;
N/A

(b) The reason for adoption of the more costly rule;
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following: No, N/A

(a) What is the cost to implement the federal rule or regulation? N/A

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____ Total 0 _____

(b) What is the additional cost of the state rule? N/A

Current Fiscal Year

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00 _____

\$ 0.00 _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00 _____

\$ 0.00 _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following: N/A

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:

(a) justifies the agency's need for the proposed rule; and

(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.



Arkansas State Bank Department

Candace A. Franks
Commissioner

Asa Hutchinson
Governor

TRANSMITTAL MEMORANDUM

DATE: September 25, 2019

TO: Chief Executive Officers
Arkansas State Banks and Non-Bank Institutions

FROM: Candace A. Franks
Bank Commissioner

SUBJECT: Replacement Pages Arkansas State Bank Department Rules Manual

Please find enclosed with this memorandum replacement pages for the Arkansas State Bank Department Rules Manual.

Remove Pages

Insert Pages

Cover page	Cover page
Arkansas State Banking Board i.....	i
Collective Investment Funds – Section7 – 47-701.9 7.10 – 7.15.....	7.10

Changes include:

- 1... Cover page and Arkansas State Banking Board member update;
2. Collective Investment Funds – Section7 - repeal the existing language for Collective Investment Funds and replace it by adopting the current Office of the Comptroller of the Currency rule by reference.

ARKANSAS STATE BANK DEPARTMENT



Rules

Updated: September 25, 2019

ARKANSAS STATE BANKING BOARD

<u>Position Number</u>	<u>Classification of Position</u>	<u>Entitled to Nominate</u>	<u>Incumbent</u> _____	<u>Term Expires</u>
1	Bank Dept. Member	Bank Commissioner	Todd Smith	12-31-2019
2	Arkansas Bankers Association Member	Bankers Association	Randy Scott	12-31-2020
3	Arkansas Bankers Association Member	Bankers Association	Scott Miller	12-31-2023
4	Public Member	Governor	Ronald Mobley	12-31-2018
5	Public Member	Governor	David Leech	12-31-2021
6	Public Member	Governor	Lana Hampton	12-31-2018

(A) All trust and estates over which a court is exercising jurisdiction shall be closed or disposed of as soon as practical in accordance with the orders or instructions of such court;

(B) All other accounts which can be closed promptly shall be closed as soon as practicable and final accounting made therefore, and all remaining accounts shall be transferred by appropriate legal proceedings to substitute fiduciaries.

(1) Surrender or Revocation of Fiduciary Powers. Any state bank which has been granted the right to exercise fiduciary powers and which desires to surrender such right shall file with the Commissioner a certified copy of the resolution of its board of directors signifying such desire. Upon receipt of such resolution, the Commissioner shall make an investigation and if satisfied that the bank has been discharged from all fiduciary duties which it has undertaken, shall issue a certificate to such bank certifying that it is no longer authorized to exercise fiduciary powers.

September 25, 2019

COLLECTIVE INVESTMENT FUNDS

Collective Investment. (Common Trust Funds as in A.C.A. § 28-69-202)

- (a) Any common trust fund or collective investment authorized by Arkansas Code Annotated § 28-69-202 shall be established and maintained in accordance with 12 C.F.R. 9.18 as of January 1, 2019.